

## **REMARKS**

Applicants would like to thank the examiner for the interview granted to applicants representative, Marc A. Rossi, on May 10, 2007. The current outstanding rejections of the claims and proposed amendment to the claims were discussed during the interview. Applicants have proceeded with the amendment of the claims as agreed during the interview.

Claims 1, 2, 4-7, 9-12, 27 and 29-36 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicants have amended the claims in accordance with the examiner's helpful comments. Reconsideration and withdrawal of the claims is respectfully requested.

The examiner indicated during the interview that claims 34-36 are objected to as being dependent on a rejected claim, but would be allowable if rewritten in independent form. Applicants have rewritten claim 34 as an independent claim. Claims 35 and 36 depend either directly or indirectly on claim 34. Accordingly, claims 34-36 are believed to be in condition for allowance.

The examiner also indicated that the rejection stated at Item 7 of the Office Action incorrectly listed the claims as rejected based on anticipation. Instead, claims 1, 6-7, 9-12, 27 and 29 actually stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shepard et al., hereinafter Shepard(US Pub. No. 2003/0191682) in view of Microsoft Press Computer Dictionary et al., hereinafter Microsoft Dictionary. Applicants respectfully traverse the rejection.

Claims 1, 7 and 29 are independent claims. Each of the independent claims required data representing affective information which relates to the feelings or emotions of a particular user identified by a user identifier toward the stored digital image. The affective information includes a quantitative value which is an importance rating of the digital image. The invention allows for the personalization of stored images related to the importance a particular user places on a particular image, as the quantitative value of the affective information is then used to selectively retrieve the stored digital images.

In contrast, Shepard discloses a system in which a plurality of individuals rate a plurality of different visual representations. The ratings are then processed to determine an average rating for each of the visual representations. The average ratings can be utilized by companies to determine which visual representations

engender certain feelings like "fun and exciting" among a group of individuals. In no way do the recorded ratings constitute quantitative data that is then used for image retrieval.

In view of the above, applicants submit that Shepard fails to provide any suggestion for rendering the claims obvious. The Microsoft Dictionary fails to overcome the deficiencies of Shepard. The examiner is clearly relying on hindsight knowledge of applicants' own invention in an attempt to reconstruct the invention from the prior art, which cannot form the basis for finding the claims prima facie obvious under 35 U.S.C. 103. Accordingly, the rejection of claim 1, 7 and 29 is improper and should be withdrawn.

The remaining dependent claims have been rejected based on the rejection of the independent claims and further secondary references. None of the additional secondary references, however, overcome the deficiencies of Shepard and the Microsoft Dictionary set forth above. Accordingly, the dependent claims are also believed to be in condition for allowance

In view of the foregoing, it is believed none of the references, taken singly or in combination, disclose the claimed invention. Accordingly, this application is believed to be in condition for allowance, the notice of which is respectfully requested.

Respectfully submitted,



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